

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

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BARNARD COLLEGE,

Petitioner,

-against-

TRANSPORT WORKERS UNION OF
AMERICA, AFL-CIO, LOCAL 264,

Respondent.
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Case No. 1:19-cv-00531-AKH

**MOTION FOR LEAVE TO FILE SUR-REPLY TO RESPONDENT'S
MARCH 15, 2019 REPLY TO PETITIONER'S ANSWER TO
RESPONDENT'S CROSS-PETITION TO CONFIRM**

Petitioner Barnard College ("Petitioner" or "Barnard"), by and through its undersigned attorneys, Jackson Lewis P.C., respectfully requests permission to file a sur-reply to Transport Workers Union of America, AFL-CIO, Local 264's ("Union" or "Respondent") March 15, 2019 Reply to Petitioner's Answer to Respondent's Cross-Petition to Confirm the Arbitration Award (Docket No. 20). A copy of Petitioner's proposed sur-reply is attached hereto as Exhibit A.

In its Reply, the Union claimed that the Court should disregard Barnard's Answer to the Union's Cross-Petition, and Barnard's supporting Memorandum, alleging they were untimely filed and served. The Union's argument misconstrues the applicable procedural rules. As demonstrated in the attached proposed sur-reply, Barnard's papers *were* timely filed, as an answer to a cross-petition (and supporting memorandum), pursuant to FED. R. CIV. P. 12(a)(1)(B). Specifically, pursuant to FED. R. CIV. P. 12(a)(1)(B), an answer to a cross-petition is timely filed and served within 21 days of receipt of Respondent's Cross-Petition papers. To disregard Barnard's response would not only be an endorsement of Respondent's incorrect reading of the

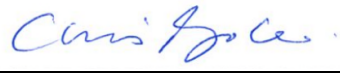
applicable rules, but would also result in significant prejudice to Barnard, and to the important public policy position it is advocating for in this case, by deeming admitted the numerous misstatements and mischaracterizations in Respondent's Cross-Petition. *See* FED. R. CIV. P. 8(b) (requiring a party to admit, deny or otherwise respond to allegations in a pleading, or else admitting the allegations by default).

CONCLUSION

The Court should grant Barnard's motion for leave to file a brief six (6) page sur-reply to the Union's March 15, 2019 Reply to Petitioner's Answer to Respondent's Cross-Petition to Confirm the Arbitration Award or, in the alternative, the Court should grant Petitioner's Amended Petition to Vacate the Arbitration Award and deny Respondent's Cross-Petition to confirm the Arbitration Award.

Respectfully submitted,

JACKSON LEWIS P.C.

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Dated: New York, New York
March 27, 2019